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C O N F I D E N T I A L SECTION 01 OF 02 SANAA 003062

SIPDIS

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TAGS: PTER PREL ASEC KVPR YM COUNTER TERRORISM

SUBJECT: LIMBURG AND COLE CASES ON APPEAL, BANNA STILL ON HOLD

REF: A. SANAA 02021

B. SANAA 02328

C. SANAA 02421

Classified By: Ambassador Thomas Krajeski for reasons 1.4(b) and (d).

¶11. (C) Summary. Assistant Attorney General (AAG) Sharaf al-Mahbashi told Legatt on 10/06 that the Limburg appeal began with arguments from the first eight appellees, that briefs have been submitted to Court of Appeals in the Cole case although the court has not yet set a date to hear arguments, and that the AG's office has still not received the case file on U.S. fugitive Jabar Al-Banna. End Summary.

¶12. (C) In a 12/06 meeting AAG Sharaf Addin Al-Mahbashi shared with Legatt and FPD details of the appeals in the M.V. Limburg and Cole cases (ref. A, B) as well as on the status of Yemeni detainee and U.S. fugitive, Jabar al-Banna.

Limburg Appeal

¶13. (U) According to AAG Mahbashi, eight of the fifteen appellees presented oral arguments to a three-judge panel in the Court of Appeals on 12/04. Mahbashi noted that the eight appellees, arguments were the same. They presented confessions to their crimes, which were also written, signed and sealed with a fingerprint, coupled with a plea for mercy and request for a reduction in sentence. All appellees also assured the court that they would not be repeat offenders. The prosecution retorted in all eight cases, asking that the court raise the sentences to the maximum the law allows. (ref. b). Mahbashi anticipates that the panel will likely uphold the sentences as they stand. End Note.

¶14. (U) The eight Appellees who presented oral arguments on 12/04 were:

-- Omer Sa'id Jarallah (ten years for the 2002 attack on the MV Limburg)

-- Mohammed al-Ammari (ten years for the 2002 attack on the MV Limburg)

-- Fawzi al-Wajih (ten years for the 2002 attack on the MV Limburg)

-- Ibrahim al-Howeid (five years for plotting to attack foreign embassies in Sana'a and for planning to kill the U.S. Ambassador to Yemen)

-- Qassem al-Rayni (five years for plotting to attack foreign embassies in Sana'a and for planning to kill the U.S. Ambassador to Yemen)

-- Abdul-Ghani Dhayfan (five years for plotting to attack foreign embassies in Sana'a and for planning to kill the U.S. Ambassador to Yemen)

-- Mohammed Ali al-Daylami (five years for plotting to attack foreign embassies in Sana'a and for planning to kill the U.S. Ambassador to Yemen)

-- Kahled al-Juloab (three years for forging documents)

¶15. (C) The AAG presented copies of the confessions, which were read verbatim to the panel, but would not hand over copies to Legatt, promising to do so only after all the appeals were completed. He said the confessions were detailed and "completely" in line with the crimes that each Appellee was charged with. The AAG affirmed that he was pleased with the outcome of the case, particularly after the 12/04 hearing, adding that he will make every effort to see that the court sentence the remaining five defendants to the maximum sentence allowed by Yemeni law.

¶16. (C) Both media and family members were present during the Appeals Court session. Mahbashi described the feeling in the court chamber as subdued and speculated that the family members present, who created substantial commotion during the initial trial, now realized that the charges against the defendants were true. (Ref A). No date has been set for the remaining appellees but Mahbashi assured that the process

will move along and promised to keep Post updated.

Cole Appeal

17. (C) On the Cole Appeal, (ref. B) AAG noted that the four appellants have submitted their briefs to the Court of Appeals but that his office was still not informed of a date to present oral arguments.

Jabar Al-Banna

18. (C) Finally, Mahbashi affirmed that the case files of Jabar Al-Banna has not been handed over to the AG's office for investigation. He also said that he did not anticipate any movement on the file until the end of the year.

19. (C) Legatt reiterated his offer to bring case agents with knowledge on Al-Banna to Yemen to help the AG's office in developing a case. Mahbashi replied that there was no need for any assistance until the file was turned over to the AG's office and case had been reviewed.

KRAJESKI